



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,845	06/30/2000	Anthony A. Nobles	QUICKPS.003A	1583

20995 7590 07/26/2002

Knobbe Martens Olson & Bear LLP
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

EXAMINER

Baxter, Jessica R

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 07/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/607,845

Applicant(s)

NOBLES ET AL.

Examiner

Jessica R Baxter

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2000 and 14 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10, 12, 13, 17, 21, 23-27 is/are rejected.
- 7) ☒ Claim(s) 5-7, 11, 14, 15, 18-20 and 28-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 8-10, 12, 13, 17, 21, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,759,188 to Yoon.

Regarding claim 1, Yoon discloses a method of suturing using a device having a needle attached to a suture (see FIG. 13 suture 100), a needle driver (see FIG. 13 needle holding member 56A and tubular member 14), and at least one needle holder (see needle holders 20 and 22), the method comprising the steps of (a) positioning a distal needle holder in a distal position (see FIG. 13 needle holder 22) and positioning a distal end of the needle driver in a proximal position relative to the portion of biological tissue (see FIG. 13 tissue T, needle holder 20, and needle holding member 56A), (b) positioning the needle in either the proximal or distal position (see FIG. 13 needle 96), (c)

Art Unit: 3731

moving the needle driver longitudinally in a first direction along a path parallel to the longitudinal axis (see FIGS. 13 and 14), and (d) repeating steps (a)-(c) (see Column 9 line 48 – Column 10 line 24 and Column 10 lines 36-39).

Regarding claim 2, Yoon discloses moving the needle driver longitudinally in a second direction substantially opposite to the first direction (see FIGS. 13-16 tubular member 14).

Regarding claim 3, Yoon discloses that the needle is positioned in a proximal position by releasably holding the needle in a proximal needle holder positioned in a proximal position (see FIGS. 13-16 needle 96).

Regarding claim 4, Yoon discloses moving the needle driver longitudinally in the first direction advances the needle from the proximal needle holder to the distal needle holder (see FIGS. 13-16 needle 96 and tubular member 14)

Regarding claim 8, Yoon discloses that the needle is positioned in a proximal position by releasably holding the needle near a distal end of the needle driver (see FIG 16 needle 96 and Column 10 lines 36-39).

Regarding claim 9, Yoon discloses that moving the needle driver longitudinally in the first direction results in the needle being releasably held by the distal needle holder (see FIGS. 13-16 and Column 10 lines 36-39).

Regarding claim 10, Yoon discloses that releasing the needle from the needle driver after the needle is held by the distal needle holder (see FIGS. 13-16 needle 96 and needle catcher 22)

Regarding claim 12, Yoon discloses that the needle is positioned in a distal position by releasably holding the needle with the distal needle holder (see FIG. 16 and Column 10 lines 36-39).

Regarding claim 13, Yoon discloses that moving the needle driver longitudinally in the first direction advances the needle from the distal position to the proximal position (see FIG. 16, Column 9 line 48 - Column 10 line 24, and Column 10 lines 36-39).

Regarding claim 17, Yoon discloses a suturing device comprising a needle attached to a suture (see FIG. 13 needle 96 and suture 100), a first needle holder that releasably holds the needle (see FIG. 13 needle holder 20), and a needle driver adapted to be advanced and retracted parallel to a longitudinal axis of the device (see FIG. 13 tubular member 14 and needle holding member 56A).

Regarding claim 21, Yoon discloses a suturing device comprising a needle attached to a suture (see FIG. 13 needle 96 and suture 100), a first needle holder adapted to releasably hold the needle and positionable in a proximal position or a distal position (see FIGS. 13 and needle 16 and needle holder 20), a second needle holder coupled with the first needle holder (see FIG. 13 needle catcher 22), and a needle driver (see FIG. 13 tubular member 14 and needle holding member 56A).

Regarding claim 23, Yoon discloses a medical instrument comprising a proximal portion comprising a first actuating member (see FIG. 1 knob 84a), an elongate distal portion comprising a mechanism that mechanically interacts with body tissue (see Column 4 lines 57-64), and an actuator assembly that couples the first actuating member with the mechanism (see FIG. 4 knob 84a and plate 60a and Column 6 lines 38-43).

Regarding claim 24, Yoon discloses that the mechanism is a suturing mechanism (see Column 4 lines 48-64).

Regarding claim 25, Yoon discloses that the mechanism manipulates the position of a needle (see FIG. 13).

Regarding claim 26, Yoon discloses that the first actuating mechanism comprises a thumbwheel (see FIG. 1 knob 84a).

Art Unit: 3731

Regarding claim 27, Yoon discloses that the proximal portion comprises a handle assembly having a housing (see FIG. 1 handle housing 24), and the actuator assembly comprises a rotator (see FIG. 1 knob 84a and Column 6 lines 51-53).

Allowable Subject Matter

3. Claims 16 and 22 are allowed.
4. Claims 5-7, 11, 14, 15, 18-20, and 28-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to show the state of the art with respect to suturing devices:

U.S. Patent No. 5,417,699 to Klein et al.

U.S. Patent No. 5,458,609 to Gordon et al.


U.S. Patent No. 5,746,753 to Sullivan et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Art Unit: 3731

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Jessica R Baxter
Examiner
Art Unit 3731

jrb
July 22, 2002


MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700